



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

**OCT 23 2012**

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

G. L. Bevilacqua, General Manager  
Caterpillar, Inc. - Mapleton Foundry  
8826 West Route 24  
Mapleton, Illinois 61547-9784

Dear Mr. Bevilacqua:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Caterpillar, Inc., CAA Docket No. CAA-05-2013-0001. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on OCT 23 2012.

Pursuant to the CAFO, Caterpillar must pay the civil penalty within 30 days of the date the CAFO was filed, OCT 23 2012. Your electronic funds transfer must display the docket number, CAA-05-2013-0001, and the billing document number, 2751303A001.

Please direct any questions regarding this case to Michael Berman, Associate Regional Counsel, at (312) 886-6837.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan A. Frank".

Nathan A. Frank, P.E.

Chief

Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. CAA-05-2013-0001</b>
	)	
<b>Caterpillar, Inc. – Mapleton Foundry</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Mapleton, Illinois</b>	)	<b>Under Section 113 (d) of the Clean Air Act</b>
	)	<b>42 U.S.C. § 7413(d)</b>
	)	


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**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5.
3. Respondent is Caterpillar, Inc. (Caterpillar), a corporation doing business in Illinois.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

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### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations and legal conclusions in the CAFO.
8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

### **Statutory and Regulatory Background**

9. Section 113(a) of the CAA, 42 U.S.C. § 7413(a), authorizes the Administrator of the EPA (Administrator) to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of an applicable implementation plan or permit.
10. Section 112 of the CAA requires EPA to list categories and subcategories of major sources and area sources of hazardous air pollutants (HAPs) and to establish National Emission Standards for Hazardous Air Pollutants (NESHAPs) for the listed categories and subcategories.
11. The Iron and Steel Foundries category of major sources was listed on July 16, 1992 (57 Fed. Reg. 31576).
12. 40 C.F.R. Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries (MACT Subpart EEEEE). 40 C.F.R. §§ 63.7680 – 63.7765, was proposed December 22, 2002 (67 FR 78274).
13. The effective date for MACT Subpart EEEEE is April 22, 2004.
14. The NESHAP, at 40 C.F.R. § 63.7690(b)(5)(i and ii), requires the owner and operator of a foundry that utilizes a wet acid scrubber for controlling triethylamine (TEA) emissions from a cold box mold or core making line subject to an emissions limit for TEA to maintain the three hour average scrubbing liquid flow rate at or above the minimum level established during

performance testing and maintain the three hour average pH of the scrubber blowdown at or below 4.5.

15. The NESHAP, at 40 C.F.R. § 63.7700(c), requires the owner and operator of a foundry to prepare and operate at all times according to a written plan for the selection and inspection of iron and steel scrap.

16. The NESHAP, at 40 C.F.R. § 63.7736(a)(1)(ii) and (b)(2), requires the owner and operator of a foundry to inspect, operate, and maintain each capture system and control device subject to an operating limit according to the procedures in the operation and maintenance plan.

17. The NESHAP, at 40 C.F.R. § 63.7741(f)(3), requires the owner and operator of a foundry to operate each continuous parameter monitoring system to determine and record the hourly average of all recorded readings and the three hour average of all recorded readings.

18. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate except in compliance with a Title V permit.

19. Title V of the CAA, 42 U.S.C. § 7661, established an operating permit program for major sources of air pollution. Section 502(d) of the Act, 42 U.S.C. § 7661a(d), provides that each state must submit to the Administrator a permit program meeting the requirements of Title V.

20. Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), the Administrator promulgated regulations, subsequently codified at 40 C.F.R. Part 70, providing for the establishment of Title V permitting programs.

21. Sections 502(a) of the CAA, 42 U.S.C. § 7661a(a) and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the CAA, no source subject to Title V may operate except in compliance with a Title V permit.

22. U.S. EPA granted interim approval to the Illinois Title V operating permit program on March 7, 1995, and the program became effective on that date. U.S. EPA granted final approval of the Illinois Title V program effective November 30, 2001.
23. The Administrator may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004, and \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.
24. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.
25. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

#### **Factual Allegations and Alleged Violations**

26. Caterpillar owns and operates a grey iron foundry (Facility) located at 8826 West Route 24 in Mapleton, Illinois.
27. The Caterpillar Mapleton Foundry manufactures engine blocks, cylinders, camshafts and some other parts for manufacturing Caterpillar equipment.
28. Caterpillar operates one TEA scrubber at its Facility. The scrubber is identified as the West Scrubber and is associated with emission units 46 and 181.
29. The Illinois Environmental Protection Agency (IEPA) issued Caterpillar a Title V

Operating Permit, Number 96020004, on November 25, 2003 (Title V Permit). Section 7.5.9 of Caterpillar's Title V Operating Permit requires that Caterpillar maintain records of several parameters for affected emission units to demonstrate compliance with the conditions of the Title V Operating Permit.

30. On August 12, 2011, the EPA issued to Caterpillar a Finding of Violation.

31. In Caterpillar's Annual Compliance Certifications and Deviation Summary Reports for 2008, 2009, and 2010, Caterpillar has reported events where the foundry failed to maintain its acid scrubbers three hour average scrubbing liquid flow rate at or above the minimum level established during performance testing. Also in Caterpillar's Annual Compliance Certifications and Deviation Reports for 2007, 2008, 2009 and 2010, Caterpillar has reported events where the foundry failed to maintain the three hour average pH of the scrubber blowdown at or below 4.5. These are violations of 40 C.F.R. § 63.7690(b)(5)(i) and (ii).

32. In Caterpillar's Annual Compliance Certifications and Deviation Summary Reports for 2007, 2008, and 2011, Caterpillar has reported events where the foundry did not inspect, operate, and maintain each capture system and control device subject to an operating limit according to the procedures in the operation and maintenance plan. These are violations of 40 C.F.R. § 63.7736(a)(1)(ii) and (b)(2).

33. In Caterpillar's Annual Compliance Certifications and Deviation Summary Reports since 2007, Caterpillar has reported events where the foundry's continuous parameter monitoring system failed to determine and record the hourly average of all recorded readings and the three hour average of all recorded readings. These are violations of 40 C.F.R. § 63.7741(f)(3).

34. In Caterpillar's Annual Compliance Certifications and Deviation Summary Reports since 2007, Caterpillar has reported that it failed to maintain records of several parameters for affected

emission units. These are violations of Section 7.5.9 of Caterpillar's Title V Operating Permit.

35. Caterpillar's operation in violation of its Title V permit constitutes a violation of Section 502 of the CAA and of 40 C.F.R. § 70.7(b).

#### **Civil Penalty**

36. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, including that Caterpillar has reported these violations, has promptly and co-operatively agreed to the terms of the compliance order, and has co-operatively entered into this settlement, and applying the appropriate inflation rate(s), Complainant has determined that an appropriate civil penalty to settle this action is \$20,000.

37. Within 30 days after the effective date of this CAFO, Respondent must pay a civil penalty in the amount of \$20,000 by electronic funds transfer, payable to the "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, New York 10045

Field Tag 4200 of the Fedwire message should read:  
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Caterpillar Inc., the docket number of this CAFO, and the billing document number.

38. This civil penalty is not deductible for federal tax purposes.

39. If Respondent does not timely pay the civil penalty, the EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of

the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

40. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

#### **General Provisions**

41. This CAFO resolves Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

42. The effect of the settlement described in this CAFO is conditioned upon the accuracy of the Respondent's representations to the EPA, as set forth in this CAFO.

43. The parties have entered into a separate Administrative Consent Order (Docket No. CAA-05-201.-....) imposing additional obligations on Caterpillar, including the requirement to install new pollution control equipment at the Caterpillar Mapleton Foundry. Except with respect to the violations alleged and the matters addressed in the Administrative Consent Order, the CAFO does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

44. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 41 above, compliance



with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

45. This CAFO constitutes an "enforcement response" as that term is used in the EPA's *Clean Air Act Stationary Civil Penalty Policy* to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

46. The terms of this CAFO bind Respondent, its successors, and assigns.

47. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

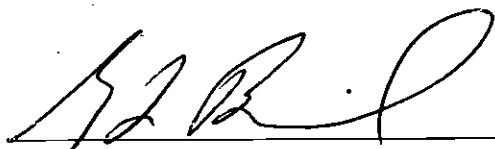
48. Each party agrees to bear its own cost and attorney's fees in this action.

49. This CAFO constitutes the entire agreement between the parties.

**Caterpillar, Inc., Respondent**

9/28/12

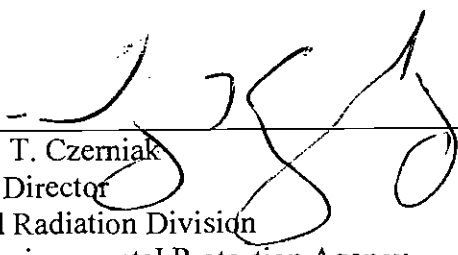
Date



G. L. Bevilacqua, General Manager  
Caterpillar, Inc. - Mapleton Foundry

**U.S. Environmental Protection Agency, Complainant**

10/17/12  
Date

  
\_\_\_\_\_  
George T. Czerniak  
Acting Director  
Air and Radiation Division  
U.S. Environmental Protection Agency  
Region 5

**CONSENT AGREEMENT AND FINAL ORDER**

**In the Matter of:**

**Caterpillar, Inc.**

**Docket No. CAA-05-2013-0001**

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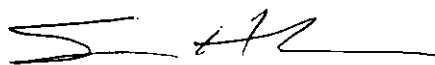
**OCT 23 2012**

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PROTECTION AGENCY**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

10-19-12  
Date



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Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

*MB*  
9/28/12

**In the Matter of: Caterpillar, Inc.  
Consent Agreement and Final Order  
Docket No. CAA-05-2013-0001**

**Certificate of Service**

I certify that I hand-delivered two originals of the Consent Agreement and Final Order (CAFO), docket number **CAA-05-2013-0001** to the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed a correct copy by first-class, postage prepaid, certified mail, return receipt requested, by placing them in the custody of the United States Postal Service addressed as follows:

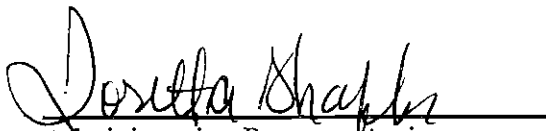
G. L. Bevilacqua, General Manager  
Caterpillar, Inc. - Mapleton Foundry  
8826 West Route 24  
Mapleton, Illinois

Jaron J. Bromm  
Caterpillar, Inc.  
100 N.E. Adams Street  
Peoria, Illinois 61629-6485

I also certify that I sent a copy of the Request to Provide Information Pursuant to the Clean Air Act by First Class Mail to:

Ray Pilapil, Manager  
Compliance and Systems Management Section  
Bureau of Air  
Illinois Environmental Protection Agency  
1021 North Grand Avenue  
Springfield, Illinois 62702

On the 23 day of Oct 2012.

  
Administrative Program Assistant  
Planning and Administrative Section

CERTIFIED MAIL RECEIPT NUMBER 7009 1680 0000 7667 4836

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